IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.129 OF 2006

Sou.Vithabai alias Kashibai
Vishnu Sankpal .. Appellant.
Vs.
Narayan Dhondi Ranjane & Anr. .. Respondents.

Mr.P.J.Pawar for the appellant.
Mr.S.D.Patil for respondent no.2.

CORAM : D.B.BHOSALE, JJ.
DATED : 7TH AUGUST, 2007.

P.C.:

. Heard learned counsel for the appellant and respondent no.2.

2. This appeal is filed by the plaintiff challenging the judgments of courts below by which a suit for possession and injunction stands dismissed. The plaintiff claims right in the suit property through her mother Huasabai, who died in 1991. Huasabai is the widow of Rajaram, who died in 1930. Rajaram is the son of Dhondi, who died in 1941. It is against this backdrop the plaintiff claims possession of the suit property and injunction. Both the courts below after having considered the entire evidence on record have rejected the claim of the plaintiff that there was partition 60 years before filing of the suit. Even the case of the plaintiff that Huasabai was in

possession of the suit property has also been answered in the negative. Whether the plaintiff is entitled for share in the suit property or not was not the issue before the courts below and hence the appellate court while dismissing the appeal has observed that since the suit is not for partition such issue need not be gone into and addressed. Considering the concurrent findings of fact recorded by the courts below and as I find sufficient material on record to sustain those findings and since no substantial question of law is raised the instant appeal is dismissed. It is open for the appellant to file a suit for partition and if such a suit is filed same may be dealt with in accordance with law. While granting liberty to the appellant to file a suit for partition I shall not be understood to have examined the merits of her contentions insofar as partition is concerned.

(D.B.BHOSALE, J.)